

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14239, of Raymond R. Ruppert, Jr., and William H. Ruppert, Administrators of the Estate of Raymond R. Ruppert, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from retail sale of new and used furniture, first floor, to retail hardware store and storage, first floor, in an HR/R-5-D District at premises 1019 7th Street, N.W., (Square 450, Lot 805).

HEARING DATE: January 30, 1985

DECISION DATE: January 30, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the east side of 7th Street between New York Avenue and L Street. It is known as premises 1019 7th Street, N.W. The site is located in an HR/R-5-D District.

2. The subject site is flat and rectangular in shape. It has a twenty-five foot frontage on 7th Street. Its depth is 99.83 feet. Access to the site is from 7th Street. There is no rear alley access.

3. The site is improved with a three story brick row structure. The first floor is vacant. The last certificate of occupancy No. B-79946, dated October 28, 1971, was for the sale of new and used furniture. The upper stories are unoccupied.

4. The subject block is characterized by three-story rowhouses which have been converted to commercial uses such as a liquor store, real estate office, hardware store, stove/fireplace supply and furniture store. Mount Vernon Square is approximately half a block to the south. Across 7th Street is the site of the proposed Mount Vernon Campus of the University of the District of Columbia. The site is located in an HR/R-5-D District and there is a C-3-C District directly across 7th Street.

5. Seventh Street is a heavily travelled street which carries two-way traffic. A proposed Metrorail stop on the Yellow Line is to be located across the street from the site.

6. The applicant operates a hardware store immediately adjacent to the north of the subject site. The applicant proposes to expand its business into the subject site.

7. The applicant seeks a special exception to change a non-conforming use from retail sale of new and used furniture, first floor, to retail hardware store and storage, first floor.

8. A nonconforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right, provided that:

- A. The proposed use will not adversely affect the present character or future development of the surrounding area in accordance with these regulations. Such surrounding area shall be deemed to encompass the existing uses and structures within at least 300 feet in all directions from the nonconforming use;
- B. The proposed use will not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects;
- C. In Residential Districts, the proposed use shall be either a dwelling, flat, apartment house or a neighborhood facility and;
- D. The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

9. The proposed use is first permitted in a C-1 District. The existing use is first permitted in a C-2 District.

10. The applicant's family has been servicing the subject neighborhood since 1890. They have owned and operated retail hardware stores during this period.

11. The applicant's hours of operation are from 7:00 A.M. to 4:00 P.M., Monday through Friday.

12. The applicant's hardware business services between eighty and 100 customers a day. Most customers are from the

immediate neighborhood. For the lighter purchases, the customers basically walk to the store from the immediate residential neighborhood to the north and east.

13. The applicant has a need for the subject structure for his business and storage. The excavation for the subway caused the vault space for his present premises to be filled-in. The storage space for the heavier hardware and plumbing supplies will now be located on the first floor of the subject premises.

14. Deliveries will be made from the front of the store since there is no rear access. There are approximately three deliveries a week. Trash is removed once a week by a private trash collector.

15. The applicant is proposing no exterior alterations. One sign will advertise the business.

16. The Office of Planning, by report dated January 23, 1985, recommended approval of the application. It was the Office of Planning's opinion that the applicant had met the requirements of Paragraph 7106.11 of the Zoning Regulations. The Office of Planning further reported that the existing nonconforming use and the other two adjacent ones to the north and south, a hardware store and a real estate office, have been in existence for many years seemingly without deleterious impact on the adjacent area. The rest of this block along 7th Street is utilized by nonconforming uses which have also been in existence for many years. The Board concurs with the reasoning and recommendation of the Office of Planning.

17. Advisory Neighborhood Commission 2C filed no recommendation on the application.

18. There were two letters of support on file. The support was on the grounds that the applicant has been a good neighbor and the business was providing a service to the neighborhood.

19. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:


Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires a showing through substantial evidence that the applicant has complied with the requirements of Paragraph 7106.11 and that the relief requested under Sub-section 8207.2 can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. The Board concludes that the applicant has met the burden of proof.

The proposed use is designed to provide convenient retail service for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development. The proposed use is permitted as a matter-of-right in the most restrictive district which the previous use is permitted as a matter-of-right. The Board concludes that the proposed use constitutes a neighborhood facility which will not adversely affect the present character or future development of the area. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Douglas J. Patton, William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Patricia N. Mathews not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 20 MAR 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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